IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 16639 of 2004

Between:

Medaramitta Narasaiah S/o. Venkaiah
R/o. Pallavolu Tikkavaram (V) Marripadu Mandal Nellore District.

..... PETITIONER

AND

Sri Pushpagiri Mutt, Kadapa rep. by its Manager, Kadapa District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly a writ in the nature of mandamus declaring the action of the respondent ie., the Pushpagiri Mutt, Kadapa in issuing Lr.No.1120/2004 dt.9.9.2004 contemplating to conduct public auction of the schedule mentioned lands admeasuring an extent of Acs.58.35 cts, in Survey Numbers 665,666,667, 668,670 and 671 situated in Ponguru (V) Marripadu Mandal, Nellore district without eviction the petitioner by due process of Law as bad, illegal, arbitrary and oppose to law.

Counsel for the Petitioner: MR.M.VIDYASAGAR

Counsel for the Respondent: MR.V.VENUGOPAL RAO

The Court at the admission stage made the following:

ORDER:

This writ petition is filed seeking a declaration that the action of the respondent-Pushpagiri Mutt, Kadapa, in contemplating to conduct a public auction of the lands in possession of the petitioner, is arbitrary and illegal.

The petitioner states that he is the cultivating tenant in respect of the land belonging to the respondent-Mutt and that he has been paying the lease amount regularly and there are absolutely no arrears. While so, the petitioner was served with a letter dated 29.05.2004 issued by the respondent directing the petitioner to pay a sum of Rs.36,500/- towards the arrears of rent. The petitioner states that he has remitted a sum of Rs.10,000/- through his counsel. Again the respondent addressed a letter dated 18.06.2004 calling upon the petitioner to pay a sum of Rs.36,500/- deducting the amount already paid by the petitioner. The petitioner gave a reply dated 25.06.2004 stating that the amount of Rs.26,500/- as claimed by the respondent, does not tally with his accounts as he has been regularly paying the 'Makta' without any delay and requested the respondent not to take any further action. He also stated that in case there are any dues, he is ready to deposit the same unconditionally subject to the verification of the accounts with the respondent. The grievance of the petitioner is that in spite of the request made by him, the respondent without finalising the accounts, addressed a letter dated 09.09.2004 requesting the Village Secretary to inform all the villagers by Tom Tom that the leasehold rights of the lands in question will be put to public auction. The Village Secretary was also requested to ensure

that no person enters into the schedule mentioned lands. Aggrieved by the said action, this writ petition is filed.

The learned counsel for the petitioner contends that since the petitioner has been continuing in possession of the land in question as cultivating tenant, the respondent is not justified in contemplating to put the leasehold rights of the land in question to public auction without taking steps to recover possession from him following due process of the law.

Sri V.Venugopal Rao, who accepted notice for the respondent, under instructions, states that as a matter of fact the tenancy in favour of the petitioner was already terminated under Rule 5 (1) of the Rules made under G.O.Ms.No.379 Revenue (Endowments-I) Department, dated 11.03.2003. Aggrieved by the same, the petitioner earlier filed W.P.No.9211 of 2003, which was disposed of by this Court by order dated 13.05.2003 granting liberty to the petitioner to make an appropriate application before the Assistant Commissioner of Endowments seeking a declaration that he is a landless poor and that the Assistant Commissioner of Endowments shall examine the matter after putting on notice the petitioner and pass appropriate orders and that till a decision is taken by the Assistant Commissioner of Endowments, the petitioner shall be allowed to continue as a lessee. The learned counsel states that in spite of the order of this Court, the petitioner failed to make any claim before the Assistant Commissioner of Endowments and the said fact has been confirmed by the Assistant Commissioner of Endowments by letter dated 07.09.2004. Thus, according to the learned counsel, the respondent has rightly initiated steps for putting the leasehold rights of the land in question to public auction. He also submits that the contention of the petitioner that the respondent proposed the auction on the ground that the petitioner fell in arrears, is not correct.

I find force in the contention of the learned counsel for the respondent. As can be seen from the order of this Court in W.P.No.9211 of 2003, there was already a notice under Rule 5(1) of

the Rules informing the petitioner that his lease stands terminated and the writ petition was disposed of by this Court granting leave and liberty to the petitioner to approach the Assistant Commissioner of Endowments seeking a declaration that he is a landless poor. However, the petitioner did not choose to make such a claim before the Assistant Commissioner. It is also relevant to note that the land in occupation of the petitioner is to an extent of Ac.58.35 cents and obviously he is not a landless poor person as defined under Section 82(2) of the A.P. Charitable & Hindu Religious Institutions & Endowments Act, 1987 (for short 'the Act'). May be that the respondent has addressed letters to the petitioner calling upon him to pay the arrears of rent, but it cannot be said that the respondent has proposed to put the leasehold rights of the land in question to public auction on the ground of alleged arrears. As per Section 82(2) of the Act, except in respect of the leases held by landless poor person for not less than six years continuously, all leases of agricultural land shall stand cancelled on the date of commencement of the Act i.e., 28.05.1987 and thereafter it is open to the concerned Institution to put the leasehold rights to auction.

In the circumstances, I do not find any infirmity in the action of the respondent in taking steps to put the leasehold rights of the land in question to public auction. The writ petition without disclosing the fact that there was an order of this Court in W.P.No.9211 of 2003 is misconceived and it does not appear to be bona fide. Hence, the petitioner is not entitled to the relief as prayed for. Accordingly, the writ petition is dismissed. No costs.

16.09.2004

VGB

To

1 The Manager, Sri Pushpagiri Mutt, Kadapa Kadapa District.

2 2CD copies.